

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 852

Introduced by Bolz, 29.

Read first time January 05, 2018

Committee: Judiciary

1 A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act;
2 to amend section 83-1,102, Reissue Revised Statutes of Nebraska, and
3 sections 83-184 and 83-1,135, Revised Statutes Cumulative
4 Supplement, 2016; to provide for medical release for committed
5 offenders as prescribed; to provide additional options for committed
6 persons to work or participate in rehabilitative activities outside
7 department facilities; to change provisions relating to the duties
8 of and the use of certain funds by the Parole Administrator; to
9 harmonize provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) A committed offender who because of a medical or
2 physical condition is determined by the department to be terminally ill
3 or permanently incapacitated may be considered for medical release by the
4 department. The department shall identify committed offenders who may be
5 eligible for medical release based upon their medical records.

6 (2) The department may grant medical release only after a review of
7 the medical, institutional, and criminal records of the committed
8 offender and such additional medical evidence from examinations or
9 investigations as the department in its discretion determines to be
10 necessary. The decision to grant medical release and to establish
11 conditions of release in addition to the conditions stated in subsection
12 (3) of this section is within the sole discretion of the department.

13 (3) As conditions of medical release, the department shall require
14 that the committed offender agree to placement for medical treatment and
15 that he or she be placed for a definite or indefinite period of time in a
16 hospital, a hospice, or another housing accommodation suitable to his or
17 her medical condition, including, but not limited to, his or her family's
18 home, as specified by the department.

19 (4) A committed offender may be eligible for medical release in
20 addition to parole.

21 Sec. 2. (1) If, during the term of medical release, the medical or
22 physical condition of the offender improves to the extent that he or she
23 is no longer eligible for medical release, the department may direct that
24 he or she be returned to the custody of the department to await a hearing
25 to determine whether the medical release should be terminated.

26 (2) If medical release is terminated due to improvement in the
27 medical or physical condition of the offender, he or she shall serve the
28 balance of his or her sentence with credit for time served on medical
29 release and without forfeiture of any credits accrued for good conduct
30 pursuant to the Nebraska Treatment and Corrections Act prior to medical
31 release.

1 (3) If an offender whose medical release is terminated due to
2 improvement in his or her medical or physical condition would otherwise
3 be eligible for parole or any other release program, he or she may be
4 considered for such release program.

5 (4) In addition to termination of medical release pursuant to
6 subsection (1) of this section, medical release may also be terminated
7 for violation of any condition of the medical release established by the
8 department.

9 Sec. 3. Section 83-184, Revised Statutes Cumulative Supplement,
10 2016, is amended to read:

11 83-184 (1) When the conduct, behavior, mental attitude, and
12 conditions indicate that a person committed to the department and the
13 general society of the state will be benefited, and there is reason to
14 believe that the best interests of the people of the state and the person
15 committed to the department will be served thereby, in that order, and
16 upon the recommendation of the board in the case of each committed
17 offender, the director may authorize such person, under prescribed
18 conditions, to:

19 (a) Visit a specifically designated place or places and return to
20 the same or another facility. An extension of limits may be granted to
21 permit a visit to a dying relative, attendance at the funeral of a
22 relative, the obtaining of medical services, the contacting of
23 prospective employers, or for any other reason consistent with the public
24 interest;~~or~~

25 (b) Work at paid employment or participate in a training program in
26 the community on a voluntary basis whenever:

27 (i) Such paid employment will not result in the displacement of
28 employed workers, or be applied in skills, crafts, or trades in which
29 there is a surplus of available gainful labor in the locality, or impair
30 existing contracts for services; and

31 (ii) The rates of pay and other conditions of employment will not be

1 less than those paid or provided for work of similar nature in the
2 locality in which the work is to be performed; or -

3 (c) Participate in substance abuse evaluations or treatment, attend
4 rehabilitative programming or treatment, seek residency or employment, or
5 participate in structured programming as provided in section 83-182.01.

6 (2) The wages earned by a person authorized to work at paid
7 employment in the community under the provisions of this section shall be
8 credited by the chief executive officer of the facility to such person's
9 wage fund. The director shall authorize the chief executive officer to
10 withhold up to five percent of such person's net wages. The funds
11 withheld pursuant to this subsection shall be remitted to the State
12 Treasurer for credit as provided in subsection (2) of section 33-157.

13 (3) A person authorized to work at paid employment in the community
14 under ~~the provisions of~~ this section may be required to pay, and the
15 director is authorized to collect, such costs incident to the person's
16 confinement as the director deems appropriate and reasonable. Collections
17 shall be deposited in the state treasury as miscellaneous receipts.

18 (4) A person authorized to work at paid employment in the community
19 under ~~the provisions of~~ this section may be required to pay restitution.
20 The director shall adopt and promulgate rules and regulations which will
21 protect the committed offender's rights to due process and govern the
22 collection of restitution as provided in section 83-184.01.

23 (5) The willful failure of a person to remain within the extended
24 limits of his or her confinement or to return within the time prescribed
25 to a facility designated by the director may be deemed an escape from
26 custody punishable as provided in section 28-912.

27 (6) No person employed in the community under ~~the provisions of~~ this
28 section or otherwise released shall, while working in such employment in
29 the community or going to or from such employment or during the time of
30 such release, be deemed to be an agent, employee, or servant of the
31 state.

1 Sec. 4. Section 83-1,102, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 83-1,102 The Parole Administrator shall:

4 (1) Supervise and administer the Office of Parole Administration;

5 (2) Establish and maintain policies, standards, and procedures for
6 the field parole service and the community supervision of sex offenders
7 pursuant to section 83-174.03;

8 (3) Divide the state into parole districts and appoint district
9 parole officers, deputy parole officers, if required, and such other
10 employees as may be required to carry out adequate parole supervision of
11 all parolees, prescribe their powers and duties, and obtain office
12 quarters for staff in each district as may be necessary;

13 (4) Cooperate with the Board of Parole, the courts, the Community
14 Corrections Division of the Nebraska Commission on Law Enforcement and
15 Criminal Justice, and all other agencies, public and private, which are
16 concerned with the treatment or welfare of persons on parole;

17 (5) Provide the Board of Parole and district judges with any record
18 of a parolee which the board or such judges ~~it~~ may require;

19 (6) Make recommendations to the Board of Parole or district judge in
20 cases of violation of the conditions of parole, issue warrants for the
21 arrest of parole violators when so instructed by the board or district
22 judge, notify the Director of Correctional Services of determinations
23 made by the board, and upon instruction of the board, issue certificates
24 of parole and of parole revocation to the facilities and certificates of
25 discharge from parole to parolees;

26 (7) Organize and conduct training programs for the district parole
27 officers and other employees;

28 (8) Use the funds provided under section 83-1,107.02 to augment
29 operational or personnel costs associated with the development,
30 implementation, and evaluation of enhanced parole-based programs and
31 purchase services to provide such programs aimed at enhancing adult

1 parolee supervision in the community and treatment needs of parolees.
2 Such enhanced parole-based programs include, but are not limited to,
3 specialized units of supervision, related equipment purchases and
4 training, and programs that address a parolee's vocational, educational,
5 mental health, behavioral, or substance abuse treatment needs, including
6 evidence-based peer and family support programs;

7 (9) Ensure that any risk or needs assessment instrument utilized by
8 the system be periodically validated;

9 (10) Report annually to the Governor and electronically to the Clerk
10 of the Legislature beginning January 1, 2015, the number of parole
11 revocations and the number of technical violations of parole; and

12 (11) Exercise all powers and perform all duties necessary and proper
13 in carrying out his or her responsibilities.

14 Sec. 5. Section 83-1,135, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 83-1,135 Sections 83-170 to 83-1,135.05 and sections 1 and 2 of this
17 act shall be known and may be cited as the Nebraska Treatment and
18 Corrections Act.

19 Sec. 6. Original section 83-1,102, Reissue Revised Statutes of
20 Nebraska, and sections 83-184 and 83-1,135, Revised Statutes Cumulative
21 Supplement, 2016, are repealed.